

Department of State

§ 171.24

consult with the relevant foreign government on that issue. If the Department is not the agency that initially received the foreign government information, it shall refer the request to the original receiving agency for direct response to the requester.

(i) *Cryptologic and intelligence information.* Mandatory declassification review requests for cryptologic information shall be processed in accordance with special procedures established by the Secretary of Defense, and such requests for information concerning intelligence activities or intelligence sources and methods shall be processed in accordance with special procedures established by the Director of Central Intelligence.

§ 171.22 Appeals.

Any denial of a mandatory declassification review request may be appealed to the Department's Appeals Review Panel in accordance with § 171.52. A denial by the Appeals Review Panel of a mandatory declassification review appeal may be further appealed to the Interagency Security Classification Appeals Panel.

§ 171.23 Declassification in the public interest.

It is presumed that information that continues to meet classification requirements requires continued protection. In exceptional cases, however, the need to protect such information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. When such questions arise, they shall be referred to the senior Department official with Top Secret authority having primary jurisdiction over the information in question. That official, after consultation with the Assistant Secretary for Public Affairs, will determine whether the public interest in disclosure outweighs the damage to national security that reasonably could be expected from disclosure. If the determination is made that the information should be declassified and disclosed, that official will make such a recommendation to the Secretary or the senior agency official who shall make the decision on declassification and disclosure. This provision does not

amplify or modify the substantive criteria or procedures for classification or create any substantive or procedural right subject to judicial review.

§ 171.24 Access by historical researchers and certain former government personnel.

(a) The restriction in E.O. 12958 and predecessor orders on limiting access to classified information to individuals who have a need-to-know the information may be waived, under the conditions set forth below, for persons who:

(1) Are engaged in historical research projects;

(2) Have served as Presidential or Vice Presidential appointees as defined in § 171.20(j), or

(3) Served as President or Vice President.

(b) Requests by such persons must be submitted in writing to the Information and Privacy Coordinator at the address set forth in § 171.5 and must include a general description of the records sought, the time period covered by the request, and an explanation why access is sought. Requests for access by such requesters may be granted if:

(1) The Secretary or the Senior Agency Official determines in writing that access is consistent with the interests of national security;

(2) The requester agrees in writing to safeguard the information from unauthorized disclosure or compromise;

(3) The requester submits a statement in writing authorizing the Department to review any notes and manuscripts created as a result of access;

(4) The requester submits a statement in writing that any information obtained from review of the records will not be disseminated without the express written permission of the Department;

(c) If a requester uses a research assistant, the requester and the research assistant must both submit a statement in writing acknowledging that the same access conditions set forth in paragraph (b)(4) of this section apply to the research assistant. Such a research assistant must be working for the applicant and not gathering information for publication on his or her own behalf.